

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

In re:)
)
CIRCUIT CITY STORES, INC.,) Case No. 08-35653 (KRH)
et al.) Chapter 11
) Jointly Administered
Debtors.)
)

**PRELIMINARY RESPONSE OF GENERAL ELECTRIC,
GE CONSUMER & INDUSTRIAL DIVISION TO
DEBTORS' THIRTEENTH OMNIBUS OBJECTION
TO CERTAIN AMENDED CLAIMS**

General Electric, GE Consumer & Industrial Division (“GE”), by and through undersigned counsel, files this Preliminary Response to Debtors’ Thirteenth Omnibus Objection to Certain Amended Claims (ECF No. 3527) (the “Objection”) and, in support thereof, states the following:

1. GE and Circuit City Stores, Inc. (the “Debtor”), and others including but not limited to American Banker’s Insurance Company, Federal Warranty Service Protections and United Service Protections, entered into a series of contracts related to the sale of service contracts by the Debtor. In short, the Debtor was required to pay certain sums to GE under the contracts.
2. On January 28, 2009, GE timely filed a proof of claim, which Kurtzman Carson Consultants, as claim’s agent for the Debtor (“Kurtzman”), assigned claim number 9027 (“Claim #9027”) in the amount of \$28,334,193.54 based on service contracts sold by the Debtor. Only \$2,645,318.31 was designated as the secured portion of Claim #9027, based on a setoff for funds owed to the Debtor for service work performed by the Debtor under the service contracts. GE

reserved the right to amend Claim #9027 to a secured claim in the total amount of \$28,334,193.54.

3. On January 29, 2009, GE timely filed an amended proof of claim which was assigned by Kurtzman claim number 7935 (“Claim #7935) in the amount of \$28,344,193.54 based on the same service contracts sold by the Debtor. Claim #7935 designated the full amount of \$28,344,193.54 as a secured claim.

4. Claim #9027 and Claim #7935 are the only two claims filed by GE in these chapter 11 proceedings.

5. On February 3, 2009, Kurtzman docketed on the claims register that certain proof of claim number 10894 (“Claim #10894”) which, on its face, purports to have been filed by GE. However, GE did not file Claim #10894.¹ Claim #10894 appears to be identical to Claim #7935 which GE did file as an amendment to its original Claim #9027.

6. On June 4, 2009, the Debtor filed the Objection which seeks the disallowance of Claim #9027 and the survival of Claim #10894 on the basis that Claim #9027 is a “repetitive claim[.]” [Objection ¶ 20.] The Objection does not address GE’s timely filed Claim #7935, nor is it clear from the Objection whether the Debtor recognizes Claim #7935 as a surviving claim.

7. GE is currently engaged in discussions with Debtor’s counsel to attempt to negotiate a resolution to the Objection. In order to continue the Objection and allow for further discussions, Debtor’s counsel has instructed GE to file this Preliminary Response.

8. Accordingly, GE files this Preliminary Response to comply with the request of Debtor’s counsel and preserve all of its rights in these proceedings, including its rights with respect to Claim #9027 and Claim #7935 and its right to supplement this Preliminary Response.

¹ One possible explanation for the filing of Claim #10894 is that the claims agent inadvertently processed GE’s Claim #7935 twice.

9. In accordance with the "Second Amended Notice of Debtor's Thirteenth Omnibus Objection to Certain Amended Claims" (ECF Doc. No. 3720, the "Amended Notice"), GE attaches the "Sworn Declaration and Statement of Michael Bach in Support of Creditor General Electric, GE Consumer & Industrial Division", attached hereto as Exhibit A, and hereby designates the following as its "designated representative" and the Notice Address (as required by the Amended Notice):

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WHEREFORE, GE respectfully requests that the Court overrule the Objection as it relates to GE and grant such other relief as the Court deems just and proper.

WHARTON, ALDHIZER & WEAVER, P.L.C.

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July, 2009, the foregoing Preliminary Response was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to parties who have filed a notice of appearance in this case. I further certify that a copy of the Preliminary Response was delivered via U.S. Mail to the following:

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